

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

THOMAS WILLIAMS SINCLAIR RICHEY,

Plaintiff,

v.

DOUGLAS THAUT,

Defendant.

No. 11-cv-5680 RBL

ORDER DENYING IFP STATUS ON
APPEAL

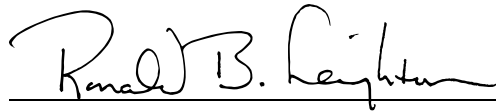
[Dkt. #27]

On February 26, 2012, this Court adopted the magistrate's report and recommendation dismissing the case. Plaintiff has filed an appeal and the question of continued *in forma pauperis* status is before the Court.

A district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). The court has broad discretion in resolving the application, but "the privilege of proceeding *in forma pauperis* in civil actions for damages should be sparingly granted." *Weller v. Dickson*, 314 F.2d 598, 600 (9th Cir. 1963), *cert. denied* 375 U.S. 845 (1963). Moreover, a court should "deny leave to proceed *in forma pauperis* at the outset if it appears from the face of the proposed complaint that the action is frivolous or without merit." *Tripathi v. First Nat'l Bank & Trust*, 821 F.2d 1368, 1369 (9th Cir. 1987) (citations omitted); *see also* 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma pauperis* complaint is frivolous if "it ha[s] no arguable substance in law or fact." *Id.* (citing *Rizzo v. Dawson*, 778 F.2d 527, 529 (9th Cir. 1985); *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir. 1984)).

1 Plaintiff's appeal must be found frivolous. Magistrate Strombom properly recommended
2 dismissal because Plaintiff failed to exhaust available remedies, as required by the Prison
3 Litigation Reform Act, 42 U.S.C. § 1997e. Plaintiff's initial grievance (regarding denial of a
4 shower after he made derogatory comments to a guard concerning her weight) was returned to
5 him so that he could delete "objectionable language." Instead of removing the objectionable
6 language, Plaintiff filed a grievance on a grievance. He then filed this lawsuit. The Complaint is
7 without merit, the appeal is frivolous, and *in forma pauperis* status is **REVOKED**. (Dkt. #27.)
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9 Dated this 16th day of April 2012.
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13 RONALD B. LEIGHTON
14 UNITED STATES DISTRICT JUDGE
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